CONFERENCE COMMITTEE REPORT
DIGEST FOR ESB 340

Citations Affected: IC 4-15-1.8-7; IC 5-10-8-7; IC 5-10.3-6-8.9.

Synopsis: Salary and PERF protection for state employees. Conference committee report for ESB 340. Provides that the state's salary and wage schedules must provide that an appointing authority is not required to reduce the salary of an employee who is demoted, unless the appointing authority determines that the salary reduction is warranted for disciplinary reasons or other good cause. Establishes a process to withdraw state employees from the public employees' retirement fund (fund) and to allow certain state employees to retire when the employees' particular departmental, occupational, or other classifications are terminated from state employment as a result of: (1) a lease or other transfer of state property to a nongovernmental entity; or (2) a contractual arrangement with a nongovernmental entity to perform certain state functions. Establishes the funding sources for the amounts that the state is required to contribute to PERF for the purchase of up to 24 months of creditable service needed by a terminated employee who elects normal or early retirement. Authorizes the state to purchase and maintain an insurance policy that provides coverage that supplements coverage provided under a United States military health care plan. **(This conference committee reports removes a provision that would permit a state employee who is not vested in the fund and is terminated from employment as the result of: (1) a lease or other transfer of state property to a nongovernmental entity; or (2) a contractual arrangement with a nongovernmental entity to perform certain state functions; to elect to roll over a lump sum distribution from the fund to another retirement account or plan. This conference report adds provisions that: (1) immediately vest in the fund a state employee who has at least 24 months of creditable service and is terminated from employment as the result of: (A) a lease or other transfer of state property to a nongovernmental entity; or (B) a contractual arrangement with a nongovernmental entity to perform certain state functions; and (2) permit a state employee who was terminated from employment after December 30, 2005, and received a lump sum distribution from the fund before the effective date of this act to elect to repay the distribution and immediately vest in the fund.)**

Effective: Upon passage; December 31, 2005 (retroactive); July 1, 2006.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT:

Your Conference Committee appointed to confer with a like committee from the House upon Engrossed House Amendments to Engrossed Senate Bill No. 340 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 4-15-1.8-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE DECEMBER 31, 2005 (RETROACTIVE)]: Sec. 7. (a) The department shall do the following:

(1) Develop personnel policies, methods, procedures, and standards for all state agencies.

(2) Formulate, establish, and administer position classification plans and salary and wage schedules, all subject to final approval by the governor.

(3) Allocate positions in the state agencies to their proper classifications.

(4) Approve employees for transfer, demotion, promotion, suspension, layoff, and dismissal.

(5) Rate employees' service.

(6) Arrange with state agency heads for employee training.

(7) Investigate the need for positions in the state agencies.

(8) Promulgate and enforce personnel rules.

(9) Make and administer examinations for employment and for promotions.

(10) Maintain personnel records and a roster of the personnel of all

state agencies.

(11) Render personnel services to the political subdivisions of the state.

(12) Investigate the operation of personnel policies in all state agencies.

(13) Assist state agencies in the improvement of their personnel procedures.

(14) Conduct a vigorous program of recruitment of qualified and able persons for the state agencies.

(15) Advise the governor and the general assembly of legislation needed to improve the personnel system of this state.

(16) Furnish any information and counsel requested by the governor or the general assembly.

(17) Establish and administer an employee training and career advancement program.

(18) Administer the state personnel law, IC 4-15-2.

(19) Institute an employee awards system designed to encourage all state employees to submit suggestions that will reduce the costs or improve the quality of state agencies.

(20) Survey the administrative organization and procedures, including personnel procedures, of all state agencies, and submit to the governor measures to secure greater efficiency and economy, to minimize the duplication of activities, and to effect better organization and procedures among state agencies.

(21) Establish, implement, and maintain the state aggregate prescription drug purchasing program established under IC 16-47-1, as approved by the budget agency.

(b) Salary and wage schedules established by the department under subsection (a) must provide:

(1) for the establishment of overtime policies, which must include: ~~the following~~

~~(1)~~ **(A)** definition of overtime;

~~(2)~~ **(B)** determination of employees or classes eligible for overtime pay;

~~(3)~~ **(C)** procedures for authorization;

~~(4)~~ **(D)** methods of computation;

~~(5)~~ **(E)** procedures for payment; **and**

~~(6)~~ **(F)** a provision that there shall be no mandatory adjustments to an employee's established work schedule in order to avoid the payment of overtime; **and**

(2) that an appointing authority is not required to reduce the salary of an employee who is demoted, unless the appointing authority determines that the salary reduction is warranted for disciplinary reasons or other good cause.

(c) The state personnel advisory board shall advise the director and cooperate in the improvement of all the personnel policies of the state.

(d) The department shall establish programs of temporary appointment for employees of state agencies. A program established under this subsection must contain at least the following provisions:

(1) A temporary appointment may not exceed one hundred eighty (180) working days in any twelve (12) month period.

(2) The department may allow exceptions to the prohibition in subdivision (1) with the approval of the state budget agency.

(3) A temporary appointment in an agency covered by IC 4-15-2 is governed by the procedures of that chapter.

(4) A temporary appointment does not constitute creditable service for purposes of the public employees' retirement program under IC 5-10.2 and IC 5-10.3. However, an employee who served in an intermittent form of temporary employment after June 30, 1986, and before July 1, 2003, shall receive creditable service for the period of temporary employment.

SECTION 2. IC 5-10-8-7, AS AMENDED BY HEA 1134-2006, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 7. (a) The state, excluding state educational institutions (as defined by IC 20-12-0.5-1), may not purchase or maintain a policy of group insurance, except:

(1) life insurance for the state's employees;

(2) long term care insurance under a long term care insurance policy (as defined in IC 27-8-12-5), for the state's employees; ~~or~~

(3) an accident and sickness insurance policy (as defined in IC 27-8-5.6-1) that covers individuals to whom coverage is provided by a local unit under section 6.6 of this chapter; **or**

(4) an insurance policy that provides coverage that supplements coverage provided under a United States military health care plan.

(b) With the consent of the governor, the state personnel department may establish self-insurance programs to provide group insurance other than life or long term care insurance for state employees and retired state employees. The state personnel department may contract with a private agency, business firm, limited liability company, or corporation for administrative services. A commission may not be paid for the placement of the contract. The department may require, as part of a contract for administrative services, that the provider of the administrative services offer to an employee terminating state employment the option to purchase, without evidence of insurability, an individual policy of insurance.

(c) Notwithstanding subsection (a), with the consent of the governor, the state personnel department may contract for health services for state employees and individuals to whom coverage is provided by a local unit under section 6.6 of this chapter through one (1) or more prepaid health care delivery plans.

(d) The state personnel department shall adopt rules under IC 4-22-2 to establish long term and short term disability plans for state employees (except employees who hold elected offices (as defined by IC 3-5-2-17)). The plans adopted under this subsection may include any provisions the department considers necessary and proper and must:

(1) require participation in the plan by employees with six (6) months of continuous, full-time service;

(2) require an employee to make a contribution to the plan in the form of a payroll deduction;

(3) require that an employee's benefits under the short term disability plan be subject to a thirty (30) day elimination period and that benefits under the long term plan be subject to a six (6) month elimination period;

(4) prohibit the termination of an employee who is eligible for benefits under the plan;

(5) provide, after a seven (7) day elimination period, eighty percent (80%) of base biweekly wages for an employee disabled by injuries resulting from tortious acts, as distinguished from passive negligence, that occur within the employee's scope of state employment;

(6) provide that an employee's benefits under the plan may be reduced, dollar for dollar, if the employee derives income from:

(A) Social Security;

(B) the public employees' retirement fund;

(C) the Indiana state teachers' retirement fund;

(D) pension disability;

(E) worker's compensation;

(F) benefits provided from another employer's group plan; or

(G) remuneration for employment entered into after the disability was incurred.

(The department of state revenue and the department of workforce development shall cooperate with the state personnel department to confirm that an employee has disclosed complete and accurate information necessary to administer subdivision (6).)

(7) provide that an employee will not receive benefits under the plan for a disability resulting from causes specified in the rules; and

(8) provide that, if an employee refuses to:

(A) accept work assignments appropriate to the employee's medical condition;

(B) submit information necessary for claim administration; or

(C) submit to examinations by designated physicians;

the employee forfeits benefits under the plan.

(e) This section does not affect insurance for retirees under IC 5-10.3 or IC 5-10.4.

(f) The state may pay part of the cost of self-insurance or prepaid health care delivery plans for its employees.

(g) A state agency may not provide any insurance benefits to its employees that are not generally available to other state employees, unless specifically authorized by law.

(h) The state may pay a part of the cost of group medical and life coverage for its employees.

SECTION 3. IC 5-10.3-6-8.9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE DECEMBER 31, 2005 (RETROACTIVE)]: **Sec. 8.9. (a) This section applies when certain employees of the state in particular departmental, occupational, or other definable classifications are**

terminated from employment with the state as a result of:

(1) a lease or other transfer of state property to a nongovernmental entity; or

(2) a contractual arrangement with a nongovernmental entity to perform certain state functions.

(b) The governor shall request coverage under this section from the board whenever an employee of the state is terminated as described in subsection (a).

(c) The board must approve a request from the governor under subsection (b) unless approval violates subsection (k), federal or state law, or the terms of the fund.

(d) As used in this section, "early retirement" means a member is eligible to retire with a reduced pension under IC 5-10.2-4-1, because the member:

(1) is at least fifty (50) years of age; and

(2) has at least fifteen (15) years of creditable service.

(e) As used in this section, "normal retirement" means a member is eligible to retire under IC 5-10.2-4-1, because:

(1) the member is at least sixty-five (65) years of age and has at least ten (10) years of creditable service;

(2) the member is at least sixty (60) years of age and has at least fifteen (15) years of creditable service; or

(3) the member's age in years plus the member's years of service is at least eighty-five (85) and the member is at least fifty-five (55) years of age.

(f) The withdrawal of the employees described in subsection (a) from the fund is effective on a termination date established by the board. The board may not establish a termination date that occurs before all of the following have occurred:

(1) The governor has requested coverage under this section and provided written notice of the following to the board:

(A) The intent of the state to terminate the employees from employment.

(B) The names of the terminated employees as of the date that the termination is to occur.

(2) The expiration of a thirty (30) day period following the filing of the notice with the board.

(3) The state complies with subsections (g) and (i).

(g) A member who:

(1) is an employee of the state described in subsection (a) with at least twenty-four (24) months of creditable service as of the date of the notice under subsection (f); and

(2) is listed in the notice under subsection (f);

is vested in the pension portion of the member's retirement benefit. The state must contribute to the fund the amount the board determines is necessary to completely fund the vested benefit. The contribution by the state must be made in a lump sum or in a series of payments determined by the board. The benefit for the member shall be computed under IC 5-10.2-4-4 using the member's actual

years of creditable service.

(h) A member who is covered by subsection (g) and who is at least sixty-five (65) years of age as of the date of the notice under subsection (f) may elect to retire under IC 5-10.2-4-1 even if the member has less than ten (10) years of service. The benefit for the member shall be computed under IC 5-10.2-4-4 using the member's actual years of creditable service.

(i) A member who is covered by subsection (f) and who, as of the date of the notice under subsection (f), is less than twenty-four (24) months from being eligible for normal or early retirement under IC 5-10.2-4-1 may elect to retire by purchasing the service credit needed for retirement under the following conditions:

(1) The state shall contribute to the fund an amount determined under IC 5-10.2-3-1.2 and payable from the sources described in subsection (j) sufficient to pay the member's contributions required for the member's purchase of the service credit the member needs to retire.

(2) The maximum amount of creditable service that the state may purchase for a member under this subsection is twenty-four (24) months.

(3) The benefit for the member shall be computed under IC 5-10.2-4-4 using the member's actual years of creditable service plus all other service for which the fund gives credit, including the creditable service purchased under this subsection.

(j) The amounts that the state is required to contribute to the fund under subsection (i) must come from the following sources:

(1) If the state receives monetary payments under the lease or contractual arrangement described in subsection (a), the proceeds of the monetary payments received by the state. The state may not require, as a condition of the transaction to transfer state property or have certain state functions performed by a nongovernmental entity, that the nongovernmental entity directly or indirectly pay the amounts that the state is required to contribute under subsection (i).

(2) If the state does not receive any monetary payments under the lease or contractual arrangement described in subsection (a), any remaining appropriations made to the state department, agency, or other entity terminating the employees described in subsection (a).

(3) If the sources described in subdivisions (1) and (2) do not fully fund the amounts that the state is required to contribute to the fund under subsection (i), the board shall request that the general assembly appropriate the amount necessary to fully fund the state's required contribution under subsection (i) in the next biennial state budget.

(k) The board shall evaluate each withdrawal under this section to determine if the withdrawal affects the fund's compliance with Section 401(a) of the Internal Revenue Code of 1954, as in effect on

September 1, 1974. The board may deny an employee permission to withdraw if the denial is necessary to achieve compliance with Section 401(a) of the Internal Revenue Code of 1954, as in effect on September 1, 1974.

SECTION 4. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "board" refers to the board of trustees of the fund.**

(b) As used in this SECTION, "fund" refers to the public employees' retirement fund established under IC 5-10.3-2-1.

(c)This SECTION applies to an individual who:

(1) was a state employee who, after December 30, 2005, was terminated from employment with the state, as described in IC 5-10.3-6-8.9(a), as added by this act;

(2) was a member of the fund;

(3) had not attained vested status (as defined in IC 5-10.2-1-8) in the fund; and

(4) after December 30, 2005, and before the effective date of this SECTION, received a lump sum distribution from the fund under IC 5-10.2-3-6.

(d) An individual described in subsection (c) who, on the date the individual terminated employment with the state, had earned at least twenty-four (24) months of creditable service in the fund may elect to become vested in the fund under IC 5-10.3-6-8.9(g), as added by this act, by filing with the fund a written notice on a form prescribed by the board.

(e) For the election described in subsection (d) to be effective, the individual must repay to the fund, in the manner and with interest at a rate determined by the board, the lump sum distribution received under IC 5-10.2-3-6.

(f) This SECTION expires January 1, 2007.

SECTION 5. **An emergency is declared for this act.**

(Reference is to ESB 340 as printed February 24, 2006.)

Conference Committee Report

on

Engrossed Senate Bill 340

Signed by:

Senator Wyss Chairperson	Representative Woodruff
Senator Rogers	Representative Welch
Senate Conferees	**House Conferees**